

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF LOUISIANA	
IBERIA CREDIT BUREAU, ET AL	LAFAYETTE-OPELOUSAS DIVISION
VERSUS	MAGISTRATE HANNA, JUDGE LEMELLE
CINGULAR WIRELESS, ET AL	CIVIL NUMBER: 6:01-CV-2148

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO CERTIFY**

Plaintiffs submit this Memorandum in Support of their Motion To Certify Class against Defendant, Centennial Communications Corp., and related entities (hereinafter collectively referred to "Centennial"). Plaintiffs respectfully submit that this Court should certify a class of governmental entities of Centennial and that the procedure for representing same does not inhibit or prohibit Plaintiffs from certifying this matter as a class action.

**I. BACKGROUND**

Plaintiffs identified 299 different entities and 2692 total wireless lines in Centennial's production of its subscriber lists.<sup>1</sup>

<u>Louisiana Governmental Entity</u>	<u>Number of Lines</u>
Acadia Parish Communications	1
Acadia Parish Police Jury	1
Acadia parish Police Jury	5
Acadia Parish School Board	1
Acadia Parish Sheriff Dept.	2
Acadia Parish Narcs. Division	1
Acadia/Evangeline Fire Protection	1
Allen Correctional Facility	1
Allen Parish Ambulance Dis # 1	1
Allen Parish District Attorney	1
Allen Parish District Judge	1
Allen Parish Libraries	1
Allen Parish School Board	2
Allen Parish Sheriff Dept.	4
Allen Parish Tax Assessor	2
Allen Parish Tourist Commission	1
Avoyelles. Parish 12th Judicial Div A	1
Avoyelles. Parish 12th Judicial Div B	1
Avoyelles Parish	2
Avoyelles Parish Assessors	2
Avoyelles Parish Police Jury	2
Avoyelles Parish Sheriff	259
Beauregard Parish Assessors Office	1
Beauregard Parish School Board	5
Beauregard Parish Library	1

<sup>1</sup> See Subscriber List (CD Roms), attached hereto, *in globo*, as Exhibit "1."

Beauregard Parish Sheriff's Office	5
Bell City Police Jury	2
Boyce Police Department	1
Broussard Fire Department	10
Broussard Police	8
Broussard Volunteer F.D.	1
Bunkie Fire Department	8
C.G.U.D. of Grant Parish	1
Calcasieu Parish Head Start	8
Calcasieu Parish District Attorney	22
Calcasieu Parish Health Unit Group	7
Calcasieu Parish Main Group	21
Calcasieu Parish Police Jury	13
Calcasieu Parish Public Safety	1
Calcasieu Parish School Board	14
Calcasieu Parish Sheriff Dept	84
Calcasieu Ward One Fire Dept	1
Calcasieu Parish Police Jury	2
Caldwell Parish Ambulance	1
Caldwell Parish Correctional Center	2
Caldwell Parish Sheriff's Office	2
Cameron Parish Ambulance Dist. 2	4
Cameron Parish Sheriffs Office	1
Cameron Parish Police Jury	1
Catahoula Parish 911 Comm. System	1
Catahoula Parish Assessors Office	1
Catahoula Police Jury	1
Catahoula Parish School Dist.	1
Catahoula Parish Sheriff's Office	2
Catahoula Parish Work	1
City of Alexandria	349
City of Alexandria Police Dept.	1
City of Alexandria Fire Dept.	1
City of Basile Police Dept.	1
City of Breaux Bridge	1
City of Breaux Bridge Police	16
City of Bunkie	1
City of Carencro	1
City of Crowley Police Dept.	2
City of DeRidder	1
City of Franklin	6
City of Grand Coteau Police Dept.	1
City of Grand Coteau	1
City of Eunice Police Dept.	1
City of Eunice Library/Theater	1
City of Kaplan	1
City of Lake Charles	8
City of Lafayette	61
City of Lafayette Public Works	1
City of Pineville	3
City of Oakdale	3
City of St. Martinville	2

City Of Natchitoches Utilities	1
City of New Iberia	3
City of Scott	2
City of Sulphur	2
City of Vidalia	3
City of Winnfield	6
Concordia Parish Clerk of Court	1
Concordia Parish Economic Development	1
Concordia Parish Fire District #2	2
Concordia Parish Police Jury	1
Concordia Parish School	3
Concordia Parish Sheriff's Dept.	9
Concordia Parish Swage District 1	1
Coushatta Tribal Police	1
Delcambre Police Department	1
Delhi Police Department	1
DeRidder City Police Dept.	2
DeRidder First Dist. 3	3
DeRidder Fire Department	1
Deville Parish Farm	1
Deville Volunteer Fire Dept	1
Desoto Parish Clerk of Court	1
East Carroll Parish Prison Farm	1
Evangeline Parish Clerk of Court	1
Evangeline Parish Coroner	1
Evangeline Parish District Attorney	1
Evangeline Parish Police Jury	5
Evangeline Parish Solid Waste Comm.	2
Evangeline Parish Tax Assessor	1
Evangeline Parish Water	1
Evangeline Parish Sheriff Dept.	1
Evangeline Parish 911	1
Fire Protection District	4
Fort Polk Military Police	1
Franklin Parish Ambulance	5
Franklin Parish Head Start	1
Franklin Parish Police Jury	2
Franklin Parish Sheriff	7
Grant Parish Assessor's Office	2
Grant Parish District Attorney	1
Grant Parish Fire District #5	2
Grant Parish Clerk of Court	1
Grant Parish Legal Resource	1
Grant Parish OCS	1
Grnat Parish Sheriffs' Office	1
Iberia Parish District Attorney	1
Iberia Parish District Station 200	1
Iberia Parish Gov't	2
Iberia Parish School Board	6
Iowa Police Jury	7
Jeff Davis Parish Econ Devlp Office	3
Jeff Davis Police Parish Coroners	1

Jeff Davis Fire Dist. 4	1
Kinder Police Dept.	1
Krotz Police Dept.	1
Lake Charles City Court	2
Lake Charles Fire Dept.	8
Lafayette City Police	13
Lake Charles Police Jury	43
Lake Charles City Police	29
Lake Charles Tax Assessor	2
Lafayette Parish Credit Union	2
Lafayette Parish D.A.	2
Lafayette Parish Headstart Program	3
Lafayette Parish School Board Career Center	1
Lafayette Parish School Board	64
Lafayette Parish Sheriff	2
Lafayette Parish Teach Fed Crdt Un	1
Lafayette Parish Assoc of Educators	16
Lafayette Fire Department	36
Lafayette Fire & Safety	2
Lafayette Firefighters Assn.	16
Lasalle Parish Clerk of Court	3
Lasalle Parish Comm. District	1
Lasalle Parish District Attorney	1
Lasalle Parish School Board	5
Lasalle Parish Police Jury	2
Leesville City Marshals Office	1
Leesville Police & Public Works	3
Leesville Police Dept.	1
Livingston Parish Fire Protection	1
Loreauville Police Dept.	3
Louisiana A/G Deaf Ministries	1
Louisiana Occupational Health Svcs.	1
Louisiana State Employees	18
Louisiana State Police	88
Louisiana State Troopers	25
Madison parish Clerk of Court	1
Madison Parish School Board	1
Madison Parish Police	7
Mamou Police Department	6
Marksville Police Department	1
Mendon Police Department	2
Milton Fire Department	3
Morehouse Parish Farm	2
Morehouse Parish School Board	4
Morehouse Parish Sheriff	5
Morehouse Parish Tax Assessor	1
Morgan City Court Prob.	1
Morrow Fire Dept.	1
Natchitoches Cty/Parish Affiliation	3
Natch. Parish School Affiliation	1
Natchitoches Parish School Board	1
Natchitoches Fire Dist.	1

Natchitoches Parish Department	1
Natchitoches Parish Library	2
Natchitoches Parish Police Jury	2
New Iberia Police Dept.	1
Parks Police Department	1
Pine Prairie Police Dept.	1
Point Coupee Parish	1
Pointe Coupee Parish Sheriffs' Office	1
Ragley Police Jury	1
Rapides Parish Police	2
Rapides Parish District Attorney	1
Rapides Parish District Attorney	2
Rapides Parish Coroners Office	2
Rapides Parish Dept. of Social Services	4
Rapides Parish Fire Dist. 4	1
Rapides Gas Utility District 2	1
Rapides Parish Library	2
Rapides Parish Employee Affiliation	3
Rapides Parish School Board	9
Rapides Parish Sheriff	615
Rapides Parish Clerk of Court	1
Rapides Parish Housing Authority	2
Rapides Parish Police Jury	10
Rapides Parish Public Defenders	1
Rapides Parish Water District	
Sabine Parish Fire District	1
Sabine Parish School Board	2
Sabine Parish Sheriff Office	72
Sabine Parish Tourist Commission	1
St Landry Parish Gov't	1
St. Martin Parish	1
St Martin Parish Police Jury	2
St Mary Parish Gov't	1
St Mary Parish Rec District # 1	1
St. Landry Parish Clerk of Court	1
St. Landry Parish Police Jury	1
St. Landry Parish School	2
St Landry Parish Communications	1
St. Martin Parish Co-op	1
St. Martin Parish Library	5
St. Martin Parish Police	1
St. Martin Parish School Bd.	28
St. Martin Parish Sheriff	10
St. Martinville Police Jury	4
St. Mary Parish Clerk of Court	1
St. Mary Parish Recreation Dept.	1
St. Mary Parish Sales Tax	7
St. Mary Parish School	64
St. Mary Parish Special Services	2
Starks Police Jury	3
State of LA	36
State of LA- Dept of DNR	1

State of LA- Wildlife & Fisheries	1
State of LA Military Department	2
State of LA- Office of Comm Services	2
State of LA- Office of Family Services	1
State of Louisiana Health Department	3
State Of Louisiana/Child SPE- Abbeville	1
Sulphur Firefighters	1.
Sulphur Police	38
Sulphur Tax Assessor	1
Tensas Parish Assessor's Office	1
Tensas Parish Fire District	1
Tensas Parish Library	1
Tensas Parish Police Jury	1
Tensas Parish Sheriff Dept.	2
Town of Arnaudville	1
Town of Church Point	2
Town of Cottonport Police Dept.	1
Town of Elizabeth	1
Town of Eunice Police Dept.	1
Town of Forest Hill Fire Dept.	1
Town of Iota	1
Town of Melville	1
Town of Mamou	1
Town of Mamou St. Dept.	1
Town of Mamou Wastewater Dept.	1
Town of Oberlin	1
Town of Ridgecrest	1
Town of Washington	1
Vermilion Parish District No. 2	1
Vermilion Parish Police Jury	3
Vermilion Parish School Board	2
Vermilion Parish Water District	1
Vernon Parish Assessor	1
Vernon Parish Clerk of Court	1
Vernon Parish Council on Aging	1
Vernon Parish District Attorney	1
Vernon Parish Fire District one	1
Vernon Parish Health Unit	1
Vernon Parish Library	1
Vernon Parish Office Community Services	5
Vernon Parish Police Jury	3
Vernon Parish School Board	1
Vernon Parish Sheriff	108
Vernon Parish Tourism Commission	1
Village of Dry Prong	1
Village of Florien	2
Village Of Forest Hill Police Dept.	1
Village of Georgetown	1
Village Of McNary	1
Vinton Police Jury	3
Village of Moreauville	1
Village of Parks	1

Ward Fire Dist 1	1
Ward 5 Fire Protective, Turkey Creek	1
Welsh Fire Department	1
West Carroll Parish Police Jury	1
Westlake Police Jury	2
Winn Parish Assessor's Office	1
Winn Parish Council on Aging	1
Winn Parish Health Unit	1
Winn Parish Police Jury	1
Winn Parish Sheriff Office	2
Winn Parish Tax Assessor	1
Win Parish Clerk of Court	1

Specifically, Louisiana Revised Statute 42:263 identifies the procedure for representing a governmental entity in litigation.<sup>2</sup> Plaintiffs previously complied with same for Town of Delcambre, City of Jeanerette and the Iberia Parish Sheriff.<sup>3</sup> In order to confirm same, Plaintiffs contacted the Attorney General's office, who confirmed this was the proper procedure for representing entities falling under the statute.<sup>4</sup>

To the extent this Honorable Court certifies this action against the remaining governmental customers of Centennial for the State of Louisiana, Plaintiffs will pursue the same process and seek approval from every entity listed in order to comply with any statutory requirements for certification.

## II. LAW AND ARGUMENT

Louisiana Revised Statute 42:263 provides the following procedure for representing a governmental entity in litigation:<sup>5</sup>

No parish governing authority...parish school board, city school board, or other local or state board shall retain or employ any special attorney or counsel to represent it in any special matter or pay any compensation for any legal services whatever unless a real necessity exists, made to appear by a resolution thereof stating fully the reasons for the action and the compensation to be paid. The resolution then shall be subject to the approval of the attorney general and, if approved by him, shall be spread upon the minutes of the body and published in the official journal of the parish.<sup>6</sup>

This means that to pursue litigation for THESE ENTITIES ONLY, one must follow this procedure. Plaintiff did so, despite it being unnecessary as to current class representatives, but was not commanded to do so, by law.

To confirm the foregoing, Plaintiffs contacted the Attorney General, who responded confirming

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<sup>2</sup> See LSA-RS 42:263, attached hereto as Exhibit "2."

<sup>3</sup> See Resolutions, attached hereto, *in globo*, as Exhibit "3."

<sup>4</sup> See Confirmation of Procedure, attached hereto as Exhibit "4."

<sup>5</sup> See Exhibit "2."

Plaintiffs' understanding.<sup>7</sup> Further, it was made clear that not all entities fell under the statute's protection and the requirements were not for all entities, but was specific to the identified entities in the statute.<sup>8</sup>

Considering the foregoing, the Court should certify the class and propose an approval period, just like a typical opt out period for certified entities. Within that time, Plaintiffs will obtain the required approval for entities requiring the statutory approval.

### III. CONCLUSION

Plaintiffs meet all requirements of Federal Rule of Civil Procedure 23 for certifying this matter as a class action. The foregoing clearly outlines that Louisiana Revised Statute 42:263 does not inhibit or prohibit certifying this matter as a class action and that once this matter is certified, approval of each entity will satisfy the statutory requirements for any entity subject to the statute's requirements.

Plaintiffs pray this matter be certified as a class action and for any and all other equitable and just relief to which they are entitled.

Respectfully:

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**STEERING COMMITTEE FOR CLASS**

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<sup>6</sup> See Exhibit "2."

<sup>7</sup> See Exhibit "4."

<sup>8</sup> See Exhibits "2" and "4."



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing has been served on all counsel of record, from Lafayette, Louisiana on January 24, 2011, in this proceeding by:

Hand Delivery	Prepaid U.S./Certified Mail
<b>X</b> Facsimile/Electronic Mail	Federal Express/Courier



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D. PATRICK DANIEL, JR.